

AN ACT concerning energy.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Lake Michigan Wind Energy Act.

Section 5. Legislative findings. The General Assembly finds:

(1) that Lake Michigan is a unique and treasured public asset that supports numerous activities for the benefit of the people, wildlife, and flora of the State of Illinois;

(2) that the bed of Lake Michigan is public land held in trust for the people of the State of Illinois and cannot be alienated to a private use or person;

(3) that federal and State policy, as well as the national security, energy, and environmental needs of the United States and the people of the State of Illinois, support exploration and development of renewable energy resources;

(4) that the State of Illinois is a signatory to a federal and multistate memorandum of understanding and is committed to promoting the efficient, expeditious, orderly, and responsible evaluation of offshore wind power projects in the Great Lakes;

(5) that wind above the Illinois public trust lands of Lake Michigan is a unique and significant renewable energy resource;

(6) that the development of that resource does not involve mining or other extraction of resources from the public trust lands of Lake Michigan;

(7) that so long as all affected public trust lands and waters of Lake Michigan remain under public ownership and control, the environmentally sustainable provision of renewable energy from offshore wind above Lake Michigan, in accordance with standards set by State and federal law and regulated by the State agency charged with protecting public trust lands and the public interest, would serve a public purpose and can be consistent with the public trust;

(8) that the State's Lake Michigan Offshore Wind Energy Advisory Council recommended clarifying and confirming the State's authority to permit such development and has made other recommendations to further the sustainable and responsible development of the State's wind energy resources above Lake Michigan; and

(9) that the State of Illinois should consider the recommendations, criteria, and lessons learned from the Advisory Council's Final Report, as well as new data, technologies, and scientific understandings, as it formulates rules to regulate offshore wind energy development in a manner that preserves public trust resources, produces public benefits, and protects the environment and public health, safety, and welfare.

Section 10. Definitions. As used in this Act:

"Public trust lands" means the bed of Lake Michigan.

"Department" means the Department of Natural Resources.

Section 15. Wind energy siting matrix. The Department shall develop a detailed offshore wind energy siting matrix for the public trust lands of Lake Michigan, which shall, at a minimum, identify areas that are unsuitable for wind energy development ("prohibited areas"), areas that are most appropriate for wind energy development ("preferred areas"), and areas that are neither prohibited nor preferred for wind energy development but that may be considered for development upon application ("possible areas"). The Department, in developing the wind energy siting matrix, shall take into consideration existing environmental, marine, public infrastructure, transportation, and security uses and factors, and may also consider other factors it identifies as appropriate.

Section 20. Offshore Wind Energy Economic Development Policy Task Force.

(a) The Governor shall convene an Offshore Wind Energy Economic Development Policy Task Force, to be chaired by the Director of Commerce and Economic Opportunity, or his or her designee, to analyze and evaluate policy and economic options to facilitate the development of offshore wind energy, and to

propose an appropriate Illinois mechanism for purchasing and selling power from possible offshore wind energy projects. The Task Force shall examine mechanisms used in other states and jurisdictions, including, without limitation, feed-in-tariffs, renewable energy certificates, renewable energy certificate carve-outs, power purchase agreements, and pilot projects. The Task Force shall report its findings and recommendations to the Governor and General Assembly by December 31, 2013.

(b) The Director of the Illinois Power Agency (or his or her designee), the Executive Director of the Illinois Commerce Commission (or his or her designee), the Director of Natural Resources (or his or her designee), and the Attorney General (or his or her designee) shall serve as ex officio members of the Task Force.

(c) The Governor shall appoint the following public members to serve on the Task Force:

(1) one individual from an institution of higher education in Illinois representing the discipline of economics with experience in the study of renewable energy;

(2) one individual representing an energy industry with experience in renewable energy markets;

(3) one individual representing a Statewide consumer or electric ratepayer organization;

(4) one individual representing the offshore wind energy industry;

(5) one individual representing the wind energy supply

chain industry;

(6) one individual representing an Illinois electrical cooperative, municipal electrical utility, or association of such cooperatives or utilities;

(7) one individual representing an Illinois industrial union involved in the construction, maintenance, or transportation of electrical generation, distribution, or transmission equipment or components;

(8) one individual representing an Illinois commercial or industrial electrical consumer;

(9) one individual representing an Illinois public education electrical consumer;

(10) one individual representing an independent transmission company;

(11) one individual from the Illinois legal community with experience in contracts, utility law, municipal law, and constitutional law;

(12) one individual representing a Great Lakes regional organization with experience assessing or studying wind energy;

(13) one individual representing a Statewide environmental organization;

(14) one resident of the State representing an organization advocating for persons of low or limited incomes;

(15) one individual representing Argonne National

Laboratory; and

(16) one individual representing a local community that has aggregated the purchase of electricity.

(d) The Governor may appoint additional public members to the Task Force.

(e) The Speaker of the House of Representatives, Minority Leader of the House of Representatives, Senate President, and Minority Leader of the Senate shall each appoint one member of the General Assembly to serve on the Task Force.

(f) Members of the Task Force shall serve without compensation.

Section 25. Assessment permits. After finalizing the wind energy siting matrix required under Section 15, the Department may, in accordance with rules adopted by the Department pursuant to Section 5-40 of the Illinois Administrative Procedure Act and with the written approval of the Governor, grant in the name of the State of Illinois permits and site leases with respect to public trust lands of Lake Michigan for the assessment of sites for offshore wind energy development.

Section 30. Permits for wind park construction and operation. The Department may, in accordance with rules adopted by the Department pursuant to Section 5-40 of the Illinois Administrative Procedure Act, convert site assessment leases to offshore wind park construction and operation leases, upon

an appropriate showing by the applicant that the construction and operation of wind energy facilities would not be inconsistent with the public trust.

Section 35. Permit terms. The Department may insert into any permit or lease issued under this Act any terms that it deems necessary to protect the rights of the State, the public, lessees, and users of waters above the public trust lands of Lake Michigan.

Section 40. Rulemaking. The Department may adopt, in accordance with the requirements of Section 5-40 of the Illinois Administrative Procedure Act, any rule that is necessary to implement this Act. The rules adopted by the Department under this Section shall, at a minimum, specify permit fees and royalty schedules, requirements for bonding and guaranteeing, requirements for decommissioning, and any other requirements necessary for carrying out the provisions of this Act.

Prior to adopting any rule under this Act, the Department shall consult with the Illinois Environmental Protection Agency, the Illinois Commerce Commission, the Illinois Power Agency, and the Department of Commerce and Economic Opportunity.

Section 45. Regulatory toolkit. The Department shall, in

consultation with the Illinois Environmental Protection Agency, the Illinois Commerce Commission, the Illinois Power Agency, and the Department of Commerce and Economic Opportunity, prepare and publish a toolkit for advising and guiding developers on the regulatory and permitting process. The toolkit shall, at a minimum, include a checklist of required State permits and an overview of estimated timelines and likely areas of concern.

Section 50. Limitation on Department Authority. Nothing contained in this Act shall be construed as requiring or permitting the Department to permanently convey any public trust lands for energy development.

Section 99. Effective date. This Act takes effect upon becoming law.